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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/238,261	01/27/1999	HAJIME INOUE	SONYJP3.0-05	6539
530	7590	06/16/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2614	20

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/238,261

Applicant(s)

INOUE ET AL.

Examiner

Annan Q Shang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32,33,36-38,40,41,43-45 and 47-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32,33,36-38,40,41,43-45 and 47-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 33 and 41 and objected claims 38 and 45 are withdrawn in view of the newly discovered reference(s) **Seidman et al (6,298,482)**, to overcome the allowable subject matter. Rejections based on the newly cited reference(s) follow. Examiner, regrets any inconvenience caused to the Applicant.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 33, 41 and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aras et al (5,872,588)** view of **Seidman et al (6,298,482)**.

As to Claim 33, note the **Aras et al** reference Figures 1 and 15, teach a broadcast-program selection history Information acquisition apparatus, comprising the following:

the claimed "storage means operable to store selection information regarding the selection of broadcast programs..." is met by Memory 1706 of Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that Memory 1706 stores selection information regarding the programs at predetermined times when the user performs selection and interacts with channel(s) of the Audio-Visual Materials (AVMs) "programs" (col. 4, lines

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58-66) from among AVMs broadcast on a plurality of channels (col. 13, lines 25-38, lines 62-col. 14, line 24 and lines 44-67);

the claimed "transmission means operable to periodically transmit selection history information including a plurality of pieces of said selection information stored..." is met by Communication Adapter Controller (CAC) 1557 of HS 111 (fig. 15, col. 14, lines 25-35), note that CAC 1557 is a transmission means (col. 25, lines 7-13), which periodically or "at a preselected time" transmits the Behavior Collection Table (BCT) data "selection history information" which is composed of a plurality of pieces of the selection information stored at a plurality of acquisition times, to Behavior Collection Center (BCC) 121 "a notification destination," at predetermined transmission timing which further includes, when HS 111 automatically turns 'ON,' at a preselected time or by subscriber (col. 14, lines 30-33), on the fly (col. 17, lines 4-23) or at a predetermined threshold of the M 1706.

Aras, fails to explicitly teach transmitting selection history information through a predetermined telephone line based on a telephone number assigned to the telephone line.

However, note **Seidman et al** reference figures 1, 2 and 5 disclose an Interactive Television System (ITV) that monitors viewer history reports, where collection by the headend of the VRS historical reports, of the user, is done through a predetermined telephone line based on the user's home phone line or number (figs 4, 5, col. 7, lines 63-67, col. 10, lines 49-57 and col. 11, lines 31-38).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras to transmit selection history information using a predetermined telephone line based on the user's telephone number and utilize the telephone network to transmit and retrieve data.

As to Claim 41, note the **Aras et al** reference Figures 1 and 15, method of acquiring selection information, comprising the steps of:

the claimed "storing selection information regarding the selection of broadcast programs..." is met by Memory 1706 of Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that Memory 1706 stores selection information regarding the programs at predetermined times when the user performs selection and interacts with channel(s) of the Audio-Visual Materials (AVMs) "programs" (col. 4, lines 58-66) from among AVMs broadcast on a plurality of channels (col. 13, lines 25-38, lines 62-col. 14, line 24 and lines 44-67);

the claimed "transmitting history information including a plurality of pieces of said selection information stored..." is met by Communication Adapter Controller (CAC) 1557 of HS 111 (fig. 15, col. 14, lines 25-35), note that CAC 1557 is a transmitter (col. 25, lines 7-13), which periodically or "at a preselected time" transmits the Behavior Collection Table (BCT) data "selection history information" which is composed of a plurality of pieces of the selection information stored at a plurality of acquisition times, to Behavior Collection Center (BCC) 121 "a notification destination," at predetermined transmission timing which further includes, when HS 111 automatically turns 'ON,' at a

preselected time or by subscriber (col. 14, lines 30-33), on the fly (col. 17, lines 4-23) or at a predetermined threshold of the M 1706.

Aras, fails to explicitly teach transmitting selection history information through a predetermined telephone line based on a telephone number assigned to the telephone line.

However, note **Seidman et al** reference figures 1, 2 and 5 disclose an Interactive Television System (ITV) that monitors viewer history reports, where collection by the headend of the historical reports, of the user, is done through a predetermined telephone line based on the user's home phone line or number (figs 4, 5, col. 7, lines 63-67, col. 10, lines 49-57 and col. 11, lines 31-38).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras to transmit selection history information using a predetermined telephone line based on the user's telephone number and utilize the telephone network to transmit and retrieve data.

As to Claim 51, note the **Aras et al** reference Figures 1 and 15, teach a broadcast-program selection history Information acquisition apparatus, comprising the following:

the claimed "storage means operable to store selection information regarding the selection of broadcast programs..." is met by Memory 1706 of Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that Memory 1706 stores selection information regarding the programs at predetermined times when the user performs selection and

interacts with channel(s) of the Audio-Visual Materials (AVMs) "programs" (col. 4, lines 58-66) from among AVMs broadcast on a plurality of channels (col. 13, lines 25-38, lines 62-col. 14, line 24 and lines 44-67);

the claimed "a transmitter operable to transmit selection history information including a plurality of pieces of said selection information stored..." is met by Communication Adapter Controller (CAC) 1557 of HS 111 (fig. 15, col. 14, lines 25-35), note that CAC 1557 is a transmitter (col. 25, lines 7-13), which periodically or "at a preselected time" transmits the Behavior Collection Table (BCT) data "selection history information" which is composed of a plurality of pieces of the selection information stored at a plurality of acquisition times, to Behavior Collection Center (BCC) 121 "a notification destination," at predetermined transmission timing which further includes, when HS 111 automatically turns 'ON,' at a preselected time or by subscriber (col. 14, lines 30-33), on the fly (col. 17, lines 4-23) or at a predetermined threshold of the M 1706;

the claimed "a processor operable to cause said selection history information to be stored in a said storage...." is met by Monitor Controller (MC) 1707 (fig. 17 and col. 25, line 42-col. 26, line 1+), note that MC 1707 in conjunction with I/O Controller 1705, is an event driven process that responds to events that are generated by the subscriber, and causes storing of events or selection history information in Memory 1706 during power off or power outage and further causes events or selection history information to be transmitted by CAC 1557 when the power is ON or restored by the user of HS 111 or automatic turning by a preselected time (col. 16, lines 34-51 and col. 18, lines 39-65).

Aras, fails to explicitly teach authorizing input from a user upon restoration of power.

However, Seidman further teaches where the headend can determine the status of VRS historical reports and send a prompt or message to the VRS to authorize the user to send the VS historical report (col. 6, lines 53-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras, to send message to authorizes an input from the user based on the status of the Home Station, such as restoring of power, etc., to enable the headend to communicate to the user to retrieve selection history information after a power outage or at anytime based on the status of the Home Station.

As to claim 52, the claimed "power-supply detection circuit operable to detect at least one of a power loss is inherent to the HS 111 (col. 16, lines 34-51 and col. 18, lines 39-65), since the HS 111 can detect power OFF and ON operations and store selection information accordingly.

As to claim 53, Aras inherently teaches where the power is an alternating current (AC) power, since the HS 111 is a home receiver, settop box, etc, (col. 5, lines 34-67) can use any power source in the home, including AC power.

As to claim 54, Aras further teaches where HS 111 comprising a user application executable by MC 1707 to acquire selection information based on user selection and initialize the user application in responses to power ON (col. 14, lines 44-67, col. 18,

lines 39-65), and further teaches automatic turning ON and initializing the HS 111 based on preselected time (col. 14, lines 25-32)

Aras, fails to explicitly teach authorizing input from a user upon restoration of power for execution of user application.

However, Seidman further teaches where the headend can determine the status of VRS historical reports and send a prompt or message to the VRS to authorize the user to send the VS historical report (col. 6, lines 53-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras, to send message to authorizes an input from the user based on the status of the Home Station, such as restoring of power, etc., for execution of user application to enable the headend to communicate to the user of the Home Station, to retrieve selection history information after a power outage or at anytime based on the status of the Home Station.

4. Claims 32, 36-38, 40, 43-45 and 47-50, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aras et al (5,872,588)** in view of **Johnson (5,053,883)**, and further in view of **Seidman et al (6,298,482)**.

As to Claim 32, note the **Aras et al** reference Figures 1 and 15, teach a broadcast-program selection history Information acquisition apparatus operable in a system including a multiplicity of the broadcast-program selection history information acquisition apparatuses and a notification destination, the broadcast programs selection history information acquisition apparatus, comprising the following:

the claimed "storage means operable to store selection information regarding the selection of broadcast programs..." is met by Memory 1706 of Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that Memory 1706 stores selection information regarding the programs at predetermined times when the user performs selection and interacts with channel(s) of the Audio-Visual Materials (AVMs) "programs" (col. 4, lines 58-66) from among AVMs broadcast on a plurality of channels (col. 13, lines 25-38, lines 62-col. 14, line 24 and lines 44-67);

the claimed "transmission means operable to periodically transmit selection history information including a plurality of pieces of said selection information stored..." is met by Communication Adapter Controller (CAC) 1557 of HS 111 (fig. 15, col. 14, lines 25-35), note that CAC 1557 is a transmission means (col. 25, lines 7-13), which periodically or "at a preselected time" transmits the Behavior Collection Table (BCT) data "selection history information" which is composed of a plurality of pieces of the selection information stored at a plurality of acquisition times, to Behavior Collection Center (BCC) 121 "a notification destination," at predetermined transmission timing which further includes, when HS 111 automatically turns 'ON,' at a preselected time or by subscriber (col. 14, lines 30-33), on the fly (col. 17, lines 4-23) or at a predetermined threshold of the M 1706, note further that the various transmission timing, enables BCC to receive multiplicity of BCT data from HS 111 and process them accordingly; note further that the HS 111, has a Satellite dish and receives satellite broadcast of "multiplicity of broadcast programs" and BCT data consists of "a multiplicity of broadcast-program selection history information" which are generated at HS 111.

Aras, fails to explicitly teach transmission timing assigned at random in accordance with an intrinsic random number.

However, note the **Johnson** reference Figures 1 and 11, teaches a method and apparatus for efficiently transferring data from a plurality of remote terminals to a central facility via communication path, where the central facility polls data from Terminals (7, 8 or 9), by sending a signals to control a random number generator at each Terminal (7, 8 or 9), to randomly distribute "transmission timing assigned at random..." for call back times of the Terminals (figs 1, 11, col. 4, lines 46-68, col. 13, lines 12-24 and col. 15, line 65-col. 16, line 14).

Therefore the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Johnson into the system of Aras in order provide flexibility of transmitting data at anytime, from a client to a server and reduce the effect of interference or collision between terminals that responds and transmits data at substantially the same time.

Aras as modified by Johnson fails to explicitly teach transmission timing being assigned within a predetermined restricted range of hours beginning at a predetermined time of day in which the multiplicity of the broadcast-program selection history information acquisition apparatuses are restricted to transmit.

However, note **Seidman et al** reference figures 1, 2 and 5 disclose an Interactive Television System (ITV) that monitors viewer history reports, where collection by the headend of the VRS historical reports, of the user, is done at times when the user is not

viewing programs, such as during late night hours “predetermined restricted range of hours...” (col. 6, lines 59-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras as modified by Johnson to transmit selection history information within a predetermined restricted range of hours beginning at a predetermined time of the day in order not to interfere with the programs being view and also to retrieve information during off peaks hours when bandwidth utilization is less.

As to claim 36, Aras further discloses a broadcast-program selection history information acquisition apparatus where the selection information includes channel number information regarding the selected broadcast program and time information showing the time when the broadcast program is selected (fig. 14 and col. 14, line 66-col. 18, line 9).

As to Claim 37, Aras further discloses a broadcast-program selection history information acquisition apparatus where the selection history information includes an identification number intrinsically assigned to the broadcast program selection history information acquisition apparatus (fig. 14 Home Station ID Number and Subscriber Number).

As to claim 38, Aras as modified by Johnson, fail to explicitly where HS 111 is operable to change at least one of a setting for the predetermined acquisition times and setting for the transmission timing based on a change command transmitted from the BCC 121.

However, Seidman further teaches where the headend can determine the status of VRS historical reports and send a prompt or message to the VRS to request for the historical reports (col. 6, lines 53-65), note that by send a message from the headend, requesting the transmission of VRS historical report, transmission timing is changed since at least one of a setting for the predetermined acquisition times, has to be altered for headend request to be granted.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras as modified by Johnson, to send message to alter the predetermined timing of receiving selection history information, thereby enabling the headend to communicate to the user and control the various Home Stations as desire and retrieve information accordingly.

As to Claim 40, note the **Aras et al** reference Figures 1 and 15, teach a method of acquiring selection history information comprising the steps of:

the claimed "providing a multiplicity of broadcast-program selection history information acquisition apparatuses" is met by Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that the HS 111, has a Satellite dish and receives satellite broadcast of "multiplicity of broadcast programs" and acquires BCT data consists of "a multiplicity of broadcast-program selection history information" which are generated at HS 111.

the claimed "storing selection information regarding the selection of broadcast programs..." is met by Memory 1706 of Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that Memory 1706 stores selection information regarding the programs at predetermined times when the user performs selection and interacts with channel(s) of

the Audio-Visual Materials (AVMs) "programs" (col. 4, lines 58-66) from among AVMs broadcast on a plurality of channels (col. 13, lines 25-38, lines 62-col. 14, line 24 and lines 44-67);

the claimed "periodically transmitting selection history information from said apparatuses to a notification destination..." is met by Communication Adapter Controller (CAC) 1557 of HS 111 (fig. 15, col. 14, lines 25-35), note that CAC 1557 is a transmitter (col. 25, lines 7-13), which periodically or "at a preselected time" transmits the Behavior Collection Table (BCT) data "selection history information" which is composed of a plurality of pieces of the selection information stored at a plurality of acquisition times, to Behavior Collection Center (BCC) 121 "a notification destination," at predetermined transmission timing which further includes, when HS 111 automatically turns 'ON,' at a preselected time or by subscriber (col. 14, lines 30-33), on the fly (col. 17, lines 4-23) or at a predetermined threshold of the M 1706, note further that the various transmission timing, enables BCC to receive multiplicity of BCT data from HS 111 and process them accordingly;

Aras, fails to explicitly teach transmission timing assigned at random in accordance with an intrinsic random number.

However, note the **Johnson** reference Figures 1 and 11, teaches a method and apparatus for efficiently transferring data from a plurality of remote terminals to a central facility via communication path, where the central facility polls data from Terminals (7, 8 or 9), by sending a signals to control a random number generator at each Terminal (7, 8 or 9), to randomly distribute "transmission timing assigned at random..." for call back

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times of the Terminals (figs 1, 11, col. 4, lines 46-68, col. 13, lines 12-24 and col. 15, line 65-col. 16, line 14).

Therefore the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Johnson into the system of Aras in order provide flexibility of transmitting data at anytime, from a client to a server and reduce the effect of interference or collision between terminals that responds and transmits data at substantially the same time.

Aras as modified by Johnson fails to explicitly teach transmission timing being assigned within a predetermined restricted range of hours beginning at a predetermined time of day in which the multiplicity of the broadcast-program selection history information acquisition apparatuses are restricted to transmit.

However, note **Seidman et al** reference figures 1, 2 and 5 disclose an Interactive Television System (ITV) that monitors viewer history reports and transmits, where the collection by the headend of the VRS historical reports is done at times when the user is not viewing programs, such as during late night hours "predetermined restricted range of hours..." (col. 6, lines 59-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras as modified by Johnson to transmit selection history information within a predetermined restricted range of hours beginning at a predetermined time of the day in order not to interfere with the programs being view and also to retrieve information during off peaks hours when bandwidth utilization is less.

As to claim 43, Aras further discloses a broadcast-program selection history information acquisition method where the selection information includes channel number information of the selected broadcast programs and time information showing the times when the broadcast programs are selected (fig. 14 and col. 14, line 66-col. 18, line 9).

As to Claim 44, Aras further discloses a broadcast-program selection history information acquisition method wherein the selection history information includes an identification number intrinsically assigned to a particular one of the broadcast program selection history information acquisition apparatus (figure 14, Home Station ID Number and Subscriber Number)

As to claim 45, Aras as modified by Johnson, fail to explicitly where HS 111 further comprising changing at least one of a setting for the predetermined acquisition times and setting for the transmission timing based on a change command received from the BCC 121.

However, Seidman further teaches where the headend can determine the status of VRS historical reports and send a prompt or message to the VRS to request for the historical reports (col. 6, lines 53-65), note that by send a message from the headend, requesting the transmission of VRS historical report, transmission timing is changed since at least one of a setting for the predetermined acquisition times, has to be altered for headend request to be granted.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras as

modified by Johnson, to send message to alter the predetermined timing of receiving selection history information, thereby enabling the headend to control the various Home Stations as desire and retrieve information accordingly.

As to Claim 47, note the **Aras et al** reference Figures 1 and 15, teach an apparatus for use in acquiring broadcast-program selection history Information, the apparatus, comprising:

The claimed "a front end section operable to select a broadcast program..." is met by Channel Selector 1558 of Home Station (HS) 111 (fig. 15 and col. 24, lines 57-col. 25, line 5), which receives and select a broadcast program from programs broadcast on a plurality of channels in accordance with selection input provided by the user;

the claimed "a memory operable to store selection information associated with the selected broadcast programs..." is met by Memory 1706 of Home Station (HS) 111 (figs. 1B, 15 col. 26, line 5-20), note that Memory 1706 stores selection information associated with the selected broadcast programs at predetermined times when the user performs selection and interacts with channel(s) of the Audio-Visual Materials (AVMs) "programs" (col. 4, lines 58-66) from among AVMs broadcast on a plurality of channels (col. 13, lines 25-38, lines 62-col. 14, line 24 and lines 44-67);

the claimed "transmitter operable to transmit selection history information including a plurality of pieces of said selection information stored..." is met by Communication Adapter Controller (CAC) 1557 of HS 111 (fig. 15, col. 14, lines 25-35), note that CAC 1557 is a transmitter (col. 25, lines 7-13), which periodically or "at a

preselected time" transmits the Behavior Collection Table (BCT) data "selection history information" which is composed of a plurality of pieces of the selection information stored at a plurality of acquisition times, to Behavior Collection Center (BCC) 121 "a notification destination," at predetermined transmission timing which further includes, when HS 111 automatically turns 'ON,' at a preselected time or by subscriber (col. 14, lines 30-33), on the fly (col. 17, lines 4-23) or at a predetermined threshold of the M 1706, note further that the various transmission timing, enables BCC to receive multiplicity of BCT data from HS 111 and process them accordingly; note further that the HS 111, has a Satellite dish and receives satellite broadcast of "multiplicity of broadcast programs" and BCT data consists of "a multiplicity of broadcast-program selection history information" which are generated at HS 111.

Aras, fails to explicitly teach a random number generator and transmission timing assigned at random in accordance with an intrinsic random number.

However, note the **Johnson** reference Figures 1 and 11, teaches a method and apparatus for efficiently transferring data from a plurality of remote terminals to a central facility via communication path, where the central facility polls data from Terminals (7, 8 or 9), by sending a signals to control a random number generator at each Terminal (7, 8 or 9), to randomly distribute "transmission timing assigned at random..." for call back times of the Terminals (figs 1, 11, col. 4, lines 46-68, col. 13, lines 12-24 and col. 15, line 65-col. 16, line 14).

Therefore the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of

Johnson into the system of Aras in order provide flexibility of transmitting data at anytime, from a client to a server and reduce the effect of interference or collision between terminals that responds and transmits data at substantially the same time.

Aras as modified by Johnson fails to explicitly teach transmission timing being assigned within a predetermined restricted range of hours beginning at a predetermined time of day in which the multiplicity of the broadcast-program selection history information acquisition apparatuses are restricted to transmit.

However, note **Seidman et al** reference figures 1, 2 and 5 disclose an Interactive Television System (ITV) that monitors viewer history reports and transmits, where the collection by the headend of the VRS historical reports is done at times when the user is not viewing programs, such as during late night hours "predetermined restricted range of hours..." (col. 6, lines 59-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras as modified by Johnson to transmit selection history information within a predetermined restricted range of hours beginning at a predetermined time of the day in order not to interfere with the programs being view and also to retrieve information during off peaks hours when bandwidth utilization is less.

As to claim 48, Aras as modified by Johnson, fail to explicitly teach where the transmission means is operable to transmit a header, including identification number that includes a telephone number belong to a user of HS 111, when transmitting the selection history information.

However, Seidman further teaches transmitting user profile that includes a telephone number (figs 4, 5 and col. 7, line 56-col. 8, line 11).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Seidman into the system of Aras as modified by Johnson to include a user telephone number to an identification number to enable the headend to retrieve and transmit information via the telephone network.

Claim 49 is met as previously discussed with respect to claim 48.

Claim 50 is met as previously discussed with respect to claim 48.

Response to Arguments

5. Applicant's arguments with respect to claims 32, 33, 36-38, 40, 41 and 47-54, have been considered but are moot in view of the new ground(s) of rejection. The amendment to all the independent claims necessitated the new ground(s) of rejections discussed above. This Office Action is made FINAL.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

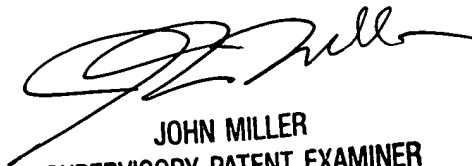
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q Shang** whose telephone number is **703-305-2156**. The examiner can normally be reached on **700am-500pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W Miller** can be reached on **703-305-4795**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.



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